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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,474

02/03/2006

Andreas Michl

01012-1038

9387

30671 7590 05/13/2011
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EXAMINER

LEE, JAE YOUNG

ART UNIT

PAPER NUMBER

2466

NOTIFICATION DATE

DELIVERY MODE

05/13/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/567,474	Applicant(s) MICHL, ANDREAS	
	Examiner JAE Y. LEE	Art Unit 2466	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 May 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Daniel J. Ryman/
Supervisory Patent Examiner, Art Unit 2466

/Jae Y Lee/
Examiner, Art Unit 2466

Continuation of 11. does NOT place the application in condition for allowance because: On pages 10, 11 of the Applicant's arguments, the Applicant argues that Bertram does not teach "displaying sequence of messages read in by the selector based on the first characteristic features."

The Examiner respectfully disagrees with the Applicant's arguments because Bertram teaches "CPU provides various parameters including memory I/O parameter in associated with % storage capacity, which is stored in database" (Fig. 4, col 4 lines 12-32, col 5 lines 19-29, 41-49, col 6 lines 35-50) and "display screen displays clickable icons produced automatically by system, e.g., CPU, on the line graph of % storage capacity change over a 12 hour periods to show line graph of memory I/O parameter (Fig. 4, col 4 lines 12-32, col 5 lines 19-24, col 6 lines 16-50). In order to calculate "%" storage capacity at the specific time on the graph, sequence of I/O parameters, e.g., sequence of message, between n time (or current) and n-1 (or previous) time is gathered so as to provide % storage capacity at the n time, e.g., specific point by calculation. As shown in Fig. 4, % storage capacity, which is result of calculation of sequence of I/O parameters, is shown as clickable icon over a time parameter along the X axis.

On page 11 of the Applicant's arguments, the Applicant argues that the motivation for combining Bertram with Pruthi and Bahadiroglu fails to result in the claimed limitations, and essentially repeats portions of the rejection.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, the motivation would have been to provide less cluttered and easier graphical display access to communication networks and particularly to user interactive access for network monitoring and administration purpose (Bertram col 1 lines 38-45) by utilizing the technique of pop-up window and clickable icons over the graph in GUI.

On pages 11, 12 of the Applicant's arguments, the Applicant argues that Hilliker fails to disclose selectable markers based on a second characteristic and, therefore, fails to provide motivation for making the second characteristic a change in attenuation.

The Examiner respectfully disagrees with the Applicant's arguments because Pruthi teaches "traffic analyzer to analyze TCP/IP packet flows so as to provide TCP level bit rate, e.g., first characteristic, and TCP level packet rate, e.g., second characteristic." (Fig. 13, 16, 17, 20, paragraph 0115-0120). Bertram already teaches well-known technique of "clickable markers shown on the graph based on parameters" for data analysis. Pruthi in combination with Bertram teaches "clickable markers shown on the graph based on parameters such as TCP level bit rate and TCP level packet rate." Hilliker teaches "test output by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots (Fig. 5, paragraph 0045). It would have been obvious to the person of ordinary skill in the art at the time of invention was made to apply a known technique, e.g., providing attenuation change on plot, shown in Hilliker to a known network analyzer of Pruthi in combination with Bertram, thereby the display device provides clickable icons automatically produced based on the parameter such as change of attenuation on the plot.